

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christopher Connors	Team: Squad #7	CCRB Case #: 201802406	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 10/25/2017 5:25 PM	Location of Incident: S/W corner of Myrtle Avenue and Classon Avenue	Precinct: 88	18 Mo. SOL 4/25/2019	EO SOL 4/25/2019	
Date/Time CV Reported Tue, 03/27/2018 6:37 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 03/27/2018 6:37 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Maximo Perezcoyle	00222	959888	088 PCT
2. POM Christopher O'Neill	06619	959012	088 PCT
3. POM Jonathan Martinez	10299	953059	088 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Boris Durets	769	938414	088 PCT
2. POM Joel Paulino	26199	949456	088 PCT
3. POM Matthew Lambert	14548	956820	088 PCT
4. SGT Matthew Walters	01128	949781	088 PCT
5. POM Desmond John	14309	940307	088 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Christopher O'Neill	Abuse: Police Officer Christopher O'Neill frisked § 87(2)(b)	
B.POM Christopher O'Neill	Abuse: Police Officer Christopher O'Neill searched § 87(2)(b)	
C.POM Christopher O'Neill	Abuse: Police Officer Christopher O'Neill searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
D.POM Maximo Perezcoyle	Abuse: Police Officer Maximo Perez-Coyle searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
E.POM Jonathan Martinez	Discourtesy: Police Officer Jonathan Martinez spoke discourteously to § 87(2)(b)	
F.POM Jonathan Martinez	Force: Police Officer Jonathan Martinez used physical force against § 87(2)(b)	
G.POM Jonathan Martinez	Abuse: Police Officer Jonathan Martinez threatened § 87(2)(b) with the use of force.	

Case Summary

On March 27, 2018, § 87(2)(b) filed this complaint with the CCRB.

On October 25, 2017, at approximately 5:25 p.m., § 87(2)(b) and § 87(2)(b) were driving east-bound along Myrtle Avenue in Brooklyn. § 87(2)(b)'s vehicle, a black 2007 Infiniti G35 four-door sedan, was being driven by § 87(2)(b) when it was stopped by a marked police SUV. Inside of the SUV were PO Maximo Perez-Coyle and PO Christopher O'Neill of the 88th Precinct. § 87(2)(b) was stopped because the vehicle was missing a front license plate.

PO Perez-Coyle informed § 87(2)(b) that he had a suspended license, and placed him under arrest. PO O'Neill asked § 87(2)(b) to exit from the vehicle and he complied. PO O'Neill frisked and searched § 87(2)(b) (**Allegation A and B: Abuse of Authority, § 87(2)(g)**), and then handcuffed him. When it was determined § 87(2)(b) and § 87(2)(b) were under arrest, PO Perez-Coyle and PO O'Neill searched § 87(2)(b)'s vehicle. The officers entered via the driver and front passenger doors of the vehicle. Marijuana stems were found, but nothing was vouchered as evidence (**Allegation C and D: Abuse of Authority, § 87(2)(g)**).

During the incident, a crowd of unidentified civilians gathered and additional officers from the 88th Precinct responded to assist PO Perez-Coyle and PO O'Neill. One of these officers, PO Jonathan Martinez (currently assigned to the 77th Precinct), placed § 87(2)(b) inside a marked SUV. While placing § 87(2)(b) inside the vehicle, PO Martinez allegedly told § 87(2)(b) "Yo, shut the fuck up" (**Allegation E: Discourtesy, § 87(2)(g)**). PO Martinez then allegedly grabbed § 87(2)(b) by his arms and threw him against the marked SUV (**Allegation F: Force, § 87(2)(g)**). § 87(2)(b) told PO Martinez, "Fuck you," and PO Martinez replied, "I'll see you at the precinct" (**Allegation G: Abuse of Authority: § 87(2)(g)**).

§ 87(2)(b) and § 87(2)(b) were then transported to the 88th Precinct stationhouse for arrest processing. § 87(2)(b)'s vehicle was driven to the stationhouse where it was released back into his custody upon his release with a Desk Appearance Ticket (**Board Review 01**).

§ 87(2)(b) was arrested and charged with § 87(2)(b).
§ 87(2)(b) was arrested and charged with § 87(2)(b).

Video footage of this incident was obtained but it does not capture the alleged misconduct.

Findings and Recommendations

Allegation A – Abuse of Authority: Police Officer Christopher O'Neill frisked § 87(2)(b)

Allegation B – Abuse of Authority: Police Officer Christopher O'Neill searched § 87(2)(b)

Allegedly, PO O'Neill instructed § 87(2)(b) to exit his vehicle and patted down § 87(2)(b)'s waistband and pant legs, and searched § 87(2)(b)'s right pant pocket, where § 87(2)(b) kept over \$1,000 USC and his cell phone, which created a bulge in his right pant pocket.

During his CCRB interview, PO O'Neill recalled smelling marijuana as he approached the vehicle. (The officers later found marijuana stems and brown cigar wrappers on the floor mat of the drivers' seat, and PO Perez-Coyle stated § 87(2)(b) acknowledged having smoked marijuana earlier in the day.) PO O'Neill acknowledged instructing § 87(2)(b) to exit from the vehicle once it was determined § 87(2)(b) was under arrest. This was done after § 87(2)(b) repeatedly refused to provide identification to PO O'Neill who was trying to determine whether § 87(2)(b) had a valid driver's license to operate the vehicle. PO O'Neill testified he did not remember frisking § 87(2)(b) nor did he remember searching § 87(2)(b) (**Board Review 02**).

People v. Cuffie (972 N.Y.S.2d 383) (2013) states it is well established that the odor marijuana emanating from a vehicle, when detected by an officer is sufficient to constitute probable cause to search a vehicle and its occupants (**Board Review 03**).

§ 87(2)(g)

Allegation C – Abuse of Authority: Police Officer Maximo Perez-Coyle searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation D – Police Officer Christopher O'Neill searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

After § 87(2)(b) and § 87(2)(b) were determined to be under arrest, two officers entered and searched the driver side and front passenger doors of § 87(2)(b)'s vehicle (**Encl. Board Review 01**). A third officer then drove § 87(2)(b)'s vehicle to the 88th Precinct stationhouse, where it was later released into § 87(2)(b)'s custody.

PO Perez-Coyle and PO O'Neil acknowledged a limited search of § 87(2)(b)'s vehicle was conducted on scene after it was determined that the officers would be taking the vehicle into custody, since both § 87(2)(b) and § 87(2)(b) were under arrest. Also, as discussed above, the officers testified they detected the odor of marijuana emanating from within § 87(2)(b)'s vehicle when they approached it, and PO Perez-Coyle testified that § 87(2)(b) acknowledged having smoked marijuana earlier. A search of the vehicle revealed what PO Perez-Coyle described as marijuana "stems" and brown cigar wrappers found on the floor mat. (**Encl. Board Review 02**) (**Board Review 04**).

NYPD Patrol Guide Procedure 218-13 states whenever any property comes into the custody of this Department an inventory as follows, (1) search the interior of the vehicle thoroughly, (a) this search should include any area that may contain valuable included but not limited to; (1) glove compartment, (2) console, (3), map pockets in or on doors and rear sides of seats, (4) areas under the seats and in and around the seat stuffing and springs, (5) under floor mats, (6) under and behind the dashboard, (7) inside the ashtrays, (8) in the air vents where accessible, (9) under the hood, (10) trunk (**Board Review 05**).

And as noted above, according to People v. Cuffie, the odor marijuana is sufficient to constitute probable cause to search a vehicle and its occupants (**Encl. Board Review 03**).

§ 87(2)(g)

Allegation E – Discourtesy: Police Officer Jonathan Martinez spoke discourteously to

§ 87(2)(b)

Allegation F – Physical Force: Police Officer Jonathan Martinez used physical force against

§ 87(2)(b)

Allegation G – Abuse of Authority: Police Officer Jonathan Martinez threatened § 87(2)(b) with the use of force.

As § 87(2)(b) was being placed inside a marked SUV awaiting transport to the 88th Precinct stationhouse, he alleged a male plainclothes officer directed profanity at him, threw him up against the vehicle, and threatened him with the use of force.

During his CCRB interview, PO Martinez denied directing any profanity toward § 87(2)(b). PO Martinez acknowledged escorting § 87(2)(b) to a marked SUV prior to his being transported to the 88th Precinct. PO Martinez denied using any physical force against § 87(2)(b) and denied threatening § 87(2)(b) with the use of force (**Board Review 06**).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to three CCRB complaints and has been named a victim in six allegations (**Board Review 07**).
- § 87(2)(b) has been party to two CCRB complaint and has been named a victim in three allegations (**Encl. Board Review 07**).
- PO Perez-Coyle has been a member-of-service for two years and this is his first CCRB complaint (**Board Review 08**).
- PO O'Neill has been a member-of-service for three years and this is his first CCRB complaint (**Encl. Board Review 08**).
- PO Martinez has been a member-of-service for six years and has been a subject in 18 CCRB complaints and 32 allegations, of which five were substantiated (**Encl. Board Review 08**).

Mediation, Civil and Criminal Histories

- Mediation was presented to § 87(2)(b) who opted to pursue an investigation.
- § 87(2)(b)

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- § 87(2)(b) [REDACTED] filed a Notice of Claim with the City of New York claiming damages for false arrest, false imprisonment, malicious prosecution, assault, battery, excessive force and violation of the civil rights of the claimant under Federal, State, and City law, and intentional infliction of emotional distress and seeking \$1,000,000 as redress. There is no 50H hearing scheduled (**Board Review 10**).

Squad No.: **7**

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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